

State of Utah
Administrative Rule Analysis
Revised December 2019

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ____; Amendment ____; Repeal ____; Repeal and Reenact <u>X</u>		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R307-165	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Department of Environmental Quality	
Agency:	Division of Air Quality	
Room no.:		
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO BOX 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Stack Testing
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The reason for the repeal and reenact was to add R307-165-5, Reporting Requirements, and to re-organize the rule to make it more readable. With all of the changes made in reorganization, staff deemed it simpler and more efficient to do a complete repeal and reenact.
4. Summary of the new rule or change:
The main changes in the new rule from the old rule are the addition of a reporting section, changing rule formatting, and general clarity corrections to the text. More notable changes include removing the appeals to the board for stack testing frequency exemptions, clarifying the Purpose and Applicability section, and conforming with existing Part H stack testing conditions. A public hearing is set for Monday, May 4 th , 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, May 1 st , 2020, at 5:00PM MT. The final status of the public hearing will be posted on Friday, May 1 st , after 5:00PM MT. The status of the public hearing may be checked at the following website location under the corresponding rule. https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The reenacted rule is not anticipated to have any additional costs or benefits to the state budget.
B) Local governments:
The reenacted rule is not anticipated to have any additional costs or benefits to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

The reenacted rule is not anticipated to have any additional costs or benefits to small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The reenacted rule is not anticipated to have any additional costs or benefits to non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The reenacted rule is not anticipated to have any additional costs or benefits to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

The reenacted rule is not anticipated to cause any additional compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The head of the Department of Environmental Quality, Scott Baird, has reviewed and approves of this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The reenacted rule is being implemented to formally add reporting requirements into the rule, remove the specific five-year testing requirements, remove the appeals to the board for testing frequency, and make general clarifying changes to the rule. The reenacted rule is not anticipated to have any fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Scott Baird, Department Executive Director

Citation Information**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy):		05/04/2020
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
05/04/2020	10:00 AM	Multi Agency State Office Building Division of Air Quality, Fourth Floor 195 N 1950 W Salt Lake City, UT 84116

10. This rule change MAY become effective on (mm/dd/yyyy): 06/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Bryce Bird, Division Director	Date (mm/dd/yyyy):	02/18/2020
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~~R307. Environmental Quality, Air Quality.~~

~~R307-165. Emission Testing.~~

~~R307-165-1. Purpose.~~

~~_____ R307-165 establishes the frequency of emission testing requirements for all areas in the state.~~

~~R307-165-2. Testing Every 5 Years.~~

~~_____ Emission testing is required at least once every five years of all sources with established emission limitations specified in approval orders issued under R307-401 or in section IX, Part H of the Utah state implementation plan. In addition, if the director has reason to believe that an applicable emission limitation is being exceeded, the director may require the owner or operator to perform such emission testing as is necessary to determine actual compliance status. Sources approved in accordance with R307-401 will be tested within six months of start-up. The Board may grant exceptions to the mandatory testing requirements of R307-165-2 that are consistent with the purposes of R307.~~

~~R307-165-3. Notification of DAQ.~~

~~_____ At least 30 days prior to conducting any emission testing required under any part of R307, the owner or operator shall notify the director of the date, time and place of such testing and, if determined necessary by the director, the owner or operator shall attend a pretest conference.~~

~~R307-165-4. Test Conditions.~~

~~_____ All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations. In addition, the source shall operate under such other relevant conditions as the director shall specify.~~

~~R307-165-5. Rejection of Test Results.~~

~~_____ The director may reject emissions test data if they are determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the director was not provided an opportunity to have an observer present at the test.~~

~~KEY: air pollution, emission testing~~

~~Date of Enactment or Last Substantive Amendment: September 2, 2005~~

~~Notice of Continuation: February 5, 2015~~

~~Authorizing, and Implemented or Interpreted Law: 19-2-104(1)~~

R307. Environmental Quality, Air Quality.

R307-165. Stack Testing.

R307-165-1. Purpose and Applicability.

(1) The purpose of R307-165 is to establish the requirements for stack testing.

(2) R307-165 applies to all emissions units with established source-specific emission limitations as specified in approval orders issued under R307-401 or in Section IX, Part H of the Utah state implementation plan.

(3) R307-165 does not apply to opacity limitations or emissions units with emissions monitored under R307-170.

R307-165-2. Testing Frequency.

(1) The owner or operator of an emissions unit as per R307-165-1(2) shall conduct stack testing at least once every five years. More frequent testing may be required as specified in an applicable federal rule, approval order, Title V permit, or State Implementation Plan.

(2) If the director has reason to believe that an applicable emission limitation is being exceeded, the owner or operator shall perform such stack testing as is necessary to determine the actual compliance status and as required by the director.

(3) The owner or operator shall conduct stack testing of emissions units approved in accordance with R307-401 within 180 days of startup.

R307-165-3. Notification of DAQ.

(1) Unless otherwise specified by federal rule, the owner or operator shall notify the director of the date, time and place of stack testing no less than 30 days, before conducting a stack test, and provide a copy of the source test protocol to the director.

(2) The source shall obtain approval of the protocol from the director prior to conducting the test. The source test protocol shall:

- (a) identify the reason for the test(s);
- (b) outline the proposed test methodologies;
- (c) identify the stack(s) to be tested; and
- (d) identify the procedures to be used.

(3) The owner or operator shall attend a pretest conference if determined necessary by the director.

R307-165-4. Test Conditions.

(1) The production rate during all stack testing shall be no less than 90% of the maximum production rate achieved in the previous three years. If the desired production rate is not achieved at the time of the test, the maximum production rate shall be 110% of the tested achieved rate, but not more than the maximum allowable production rate. This new allowable maximum production rate shall remain in effect until successfully tested at a higher rate. The owner/operator shall request a higher production rate when necessary. Testing at no less than 90% of the higher rate shall be conducted. A new maximum production rate (110% of the new rate) will then be allowed if the test is successful. This process may be repeated until the maximum allowable production rate is achieved.

(2) During the stack testing, the owner or operator shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations of the emissions unit.

(3) The owner or operator shall operate the emissions unit under such other relevant conditions as the director shall specify.

R307-165-5. Reporting.

The owner or operator shall submit a written report of the results from the stack testing to the director no later than 60 days after completion of the stack testing. The report shall include validated results and supporting information.

R307-165-6. Rejection of Test Results.

The director may reject stack testing results if determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the director was not provided an opportunity to have an observer present at the test.

KEY: air pollution, stack testing

Date of Enactment or Last Substantive Amendment:

Notice of Continuation:

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)